

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Sonoma RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The County of Sonoma requests the reduction of its Draft RHNA Allocation by 1,971 units. The County of Sonoma's appeal was heard by the ABAG Administrative Committee on October 29, 2021, at a noticed public hearing. The County of Sonoma, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the County of Sonoma's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5196708&GUID=3F8E67B7-DE4C-4EBD-B773-39519AE2C21D&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRlbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the County of Sonoma had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The County of Sonoma presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the County of Sonoma's appeal. The Administrative Committee considered the documents submitted by the County of Sonoma, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by County of Sonoma and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, Supervisor David Rabbitt recused himself from participating in consideration of the County of Sonoma's appeal.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9665](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9665). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/sites/default/files/documents/2021-11/10-29-21%20RHNA%20Appeals%20Day%206-%20CERTIFIED.pdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the County of Sonoma, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative

Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1 and #3: Lack of Available Land, Water/Sewer Capacity* – The development constraints named in this appeal were considered in Plan Bay Area 2050 Final Blueprint, the baseline allocation for RHNA. The Final Blueprint integrates strategies related to agricultural/open space preservation and limiting development to urban growth boundaries; using Urban Service Areas would have allowed growth in more areas. Some growth is forecasted outside the urban growth boundary in the County's Airport Priority Development Area (PDA) near the SMART station. Government Code Section 65584.04(e)(2)(B) states that jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.
- *Regarding Issue #2: Areas at Risk of Natural Hazards* – Areas at risk of natural hazards are generally not identified in Housing Element Law as a constraint to housing development. The County has not provided evidence that FEMA or the Department of Water Resources has determined the County's flood management infrastructure is inadequate to avoid risk of flooding. Given the variety of natural hazard risks in the Bay Area, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The County has the authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. Jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The County does not provide evidence it is unable to consider underutilization of existing sites, increased densities, ADUs, and other planning tools to accommodate its assigned need.
- *Regarding Issue #4: Affirmatively Furthering Fair Housing* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD concluded ABAG's RHNA methodology achieves the statutory objective to promote affirmatively furthering fair housing. The County has authority over where it sites lower-income RHNA in its Housing Element update. The RHNA methodology does not dictate where lower-income units are located within unincorporated Sonoma County. ABAG-MTC staff commends the County's commitment to siting lower-income housing away from areas at risk of hazards. However, some housing in hazard risk areas may be necessary, and the County can choose locations at lower risk. With modern building standards, residents in new housing are likely to be safer from hazards. Similarly, the County is to be commended for

focusing lower-income housing in areas with the most access to opportunity. However, affirmatively furthering fair housing can also include providing affordable housing in areas where low-income residents of disadvantaged communities are most vulnerable to displacement.

- *Regarding Issues #5, #6, #7, and #8: Methodology Does Not Further RHNA Objectives* – These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG’s methodology does further the objectives.
- *Regarding Issue #9: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to development of housing due to a “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” The County has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. HCD’s comments on Bay Area jurisdictions’ RHNA appeals note that “ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons.” Drought poses significant challenges to Bay Area communities, but these issues do not affect one city or county in isolation. Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought.
- *Regarding Issue #10: Change in Circumstances - Annexation* – The four annexed parcels have no households in 2050 in the Plan Bay Area 2050 Final Blueprint. These parcels do not contribute to 2050 households (the baseline allocation in the RHNA methodology) for either the County of Sonoma or Cloverdale. Thus, the annexation by Cloverdale has no impact on the RHNA for either jurisdiction, and the annexation does not represent a change in circumstances meriting a revision of the County’s allocation. ABAG-MTC staff is available to assist Sonoma County and the City of Cloverdale with a transfer of units in accordance with Government Code Section 65584.07(a).

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the County of Sonoma’s appeal and finds that the County of Sonoma’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).